

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DENNIS SISNEROS,

Plaintiff,

vs.

No. CIV 09-0213 JB/ACT

MICHAEL FISHER, in his individual capacity,
and THE COUNTY OF BERNALILLO,

Defendants.

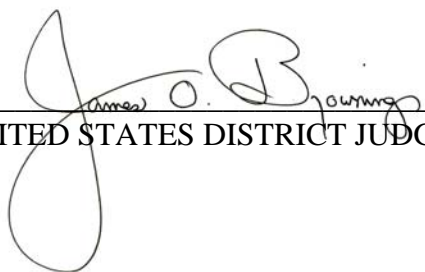
ORDER

THIS MATTER comes before the Court on the Defendants' Objections to Plaintiff's Proposed Voir Dire, filed February 18, 2010 (Doc. 90). The Court held a hearing on February 19, 2010. The primary issue is whether the Court should allow Plaintiff Dennis Sisneros' counsel to ask questions regarding race during the voir dire examination of the jury panel for the trial of this case. The Court overrules the objections.

Defendants Michael Fisher and the County of Bernalillo object to questioning the jury panel on racial issues because "[r]ace has never been asserted, claimed or pled by plaintiff until submission of Plaintiff's Proposed Voir Dire and was never documented, revealed or inquired into during discovery." Objections at 1. The Defendants insist that the questioning risks tainting the entire jury panel and the timing of Sisneros' decision to bring up the issue constitutes unfair surprise. See id. The Court finds that racial issues are relevant to the selection of this jury, given the racial composition of the parties and the existence of such prejudices in society. The Court will thus allow the challenged questions. The Court admonishes the parties' counsel to be sensitive regarding these

questions, however, and if a question is likely to illicit statements that have the potential of poisoning the jury panel, the jurors may be asked only to signal that they have a response to those questions. Any further vetting of the particular panel members feelings on the issues inquired about may be more appropriately done at the bench.

IT IS ORDERED that the Defendants' Objections to Plaintiff's Proposed Voir Dire are overruled.



UNITED STATES DISTRICT JUDGE

Counsel:

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